

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3226 of 1984  
with  
CIVIL APPLICATION No. 7612 of 1996  
with  
SPECIAL CIVIL APPLICATION No. 3300 of 1984  
with  
SPECIAL CIVIL APPLICATION No. 3409 of 1984

For Approval and Signature:

Hon'ble THE CHIEF JUSTICE MR. K.SREEDHARAN  
and  
MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1&2 : YES / 3 to 5 : NO

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REV P ELLISA

Versus

DISTRICT EDUCATION OFFICER  
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Appearance:

MR MC BHATT for Petitioners

MS AMEE YAGNIK AGP for Respondent No. 1, 2, 3  
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CORAM : THE CHIEF JUSTICE MR. K.SREEDHARAN and  
MR.JUSTICE A.R.DAVE

Date of decision: 22/04/98

Issues raised in these petitions are identical. Petitioners are Trusts created by members of the minority communities entitled to a benefit under Article 30 (1) of the Constitution. They run Primary Teachers Training Colleges. Government of Gujarat issued Annexure-A Press-Note stating that admission to the Primary Teachers Training Courses in Government and Non-Government Training Colleges from the academic year 1984-85 will be centralized and candidates who seek admission should apply to the District Education Officer of the district concerned, in the prescribed form. This step taken by the Government, it is alleged, interfere with their right to run the Educational Institution under Article 30 (1) of the Constitution. On this basis, they pray that direction be issued to respondents not to enforce Government decision to have centralized admission to the training colleges run by minor institutions.

The fact that petitioners are Trusts belonging to minority communities, falling within the ambit of Article 30 (1) of the Constitution, is not in dispute. So, the short question that arise for consideration is whether admission of students to the Teachers Training courses run by the petitioners can be by the State Government on the basis of centralized evaluation on merits.

Issue relating to admission to minority educational institution came up for decision before the Apex Court in St. Stephen's College etc., etc., vs. The University of Delhi etc., etc., AIR 1992 SC 1630. In that decision, the Apex Court took a view that minority institutions can have 50% of the total seats fill-in by students of the community to which the educational institution belong, on the basis of their interse merit and the remaining 50% by students belonging to other communities, on the basis of merit. That decision holds the field as on today and should govern these three petitions as well.

In November, 1952, the Government of Bombay ordered all private Training Colleges in the State to reserve 60% of seats for training Boards' School teachers nominated by the Government. This direction was modified from the academic year 1955-56. Educational Inspector addressed letter to the Principal of the College informing him that 80% of the total number of seats in the training college be reserved for school Board teachers deputed by the Government. Principals of colleges were directed not to admit private students in

the institution in excess of 20% of the total strength in each class. This order of the Educational Inspector was challenged by the petitioner herein in Special Civil Application No. 3226 of 1984 by moving the Supreme Court. Apex Court in that case, Sidhrajibhai vs. State of Gujarat, AIR 1963 SC 540, struck down the direction giving reservation of 80% seats on the ground that it infringes the fundamental right guaranteed to the petitioner under Article 30 (1) of the Constitution. Since the Apex Court in the decision between parties took view that 80% reservation imposed on the petitioner in the case of admission to students to teachers training course is illegal, the learned counsel representing the petitioners advanced an argument that petitioners institutions must be given freedom to fill-in entire seats according to their volition. We are not in a position to agree with this argument. Reservation of 80% seats in favour of School Board teachers deputed by Government during the year 1955-56 onwards was struck down on the ground on it being violative of fundamental rights under Article 30 (1) of the Constitution but Their Lordships did not proceed further and stated that in exercise of that minority right, petitioners are entitled to have the entire seats filled-up according to their volition. So, the decision in AIR 1963 SC 540 cannot be one binding between the parties regarding the rights of the minority community to have all seats filled-up by them. The law on this point, as on today, is governed by the decision in AIR 1992 SC 1630. As per that decision, petitioners herein are entitled to fill-up 50% seats by students belonging to the community to which institution belongs, on the basis of merit. Remaining 50% seats should be made available to students belonging to other communities, on the basis of merit and depending on the orders of the Government regarding reservation of seats belonging to socially and educationally backward communities and Scheduled Castes and Scheduled Tribes.

All the three petitions are disposed of in the above manner. Rule discharged. We make no order as to costs.

(K. Sreedharan, CJ.)

(A.R Dave, J.)

~ Prakash\*